

REMARKS

Reconsideration of the above identified application is respectfully requested. Claims 1 to 6 remain in the application.

The Examiner required restriction between claims 1 to 4 and claims 5 and 6 drawn to a method and Applicants have elected Claims 1 to 4. Claims 5 to 6 remain in the case pending a decision to file a divisional application.

The Examiner rejected claims 1 to 3 under 35 U.S.C. §102(b) as being anticipated by Osada et al. (U.S. 5,603,879).

Claim 1 has now been amended to positively recite that the vacuum tank in Applicant's invention is disposed in the die apparatus. Such structure is not shown by Osada et al. as the vacuum apparatus (45) pointed to by the Examiner may be disposed in proximity to the cavity (Fig. 1) but is not disposed within the die cavity. Accordingly, the rejection under 35 U.S.C. §102(b) is believed to be obviated as Claim 1 clearly recites structure not shown in the reference to Osada et al.

The Examiner also rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over Osada et al. As noted above, claim 1, upon which claim 4 depends, has been amended to recite structure not found or suggested in Osada et al. Thus, claim 4 is believed to be patentably distinct over Osada et al.

The Examiner also indicated that Osada et al. fails to teach the tank being at least larger than a total volume capacity of the cavity plus said exhaustion channel, but maintained it would have been obvious to one of ordinary skill in the art to change the size of the tank for the desired vacuum effect on the cavity. There is no motivation, teaching, or suggestion in Osada et al. to make the tank the claimed size and, thus, it is believed it would not have been obvious to one of ordinary skill in the art absence from clear teaching or suggestion in the basic reference. The examiner jumps to a conclusion unsupported by any of the prior art.

The Examiner also rejected claims 1 to 4 under 35 U.S.C. § 103 (a) as being unpatentable over Nagasaka et al. (5628944) in view of Osada et al.

Again as pointed out above, claim 1 has now been amended to clearly recite that the vacuum tank is disposed in the dye apparatus which structure is also not shown, taught, or suggested by Nagasaka et al. Thus there is no combination of Nagasaka et al. or Osada et al. which teaches the claimed structure recited in claim 1.

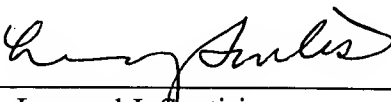
The Examiner also recognized that Nagasaka et al. fails to teach a vacuum tank and the tank being at least larger than a total volume capacity of the cavity plus the exhaustion channel and for the reasons advanced above with respect to arguments of claim 4 it is believed that a rejection under 35 U.S.C. § 103 (a) cannot be maintained.

Accordingly in view of the above amendments and remarks, favorable reconsideration and allowance of the application are respectfully requested.

No additional fee is believed to be required for the filing of this amendment, but if such is, please charge it for this application to Deposit Acct. No. 03-0520.

A Notice of Allowance is earnestly solicited.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
Leonard J. Santisi
Reg. No. 24,135
(858) 731-5000